



October 17, 2014

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**Ex Parte**

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Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Interpretation of the Terms “Multichannel Video Programming Distributor” and “Channel” as Raised in Pending Program Access Complaint Proceeding. MB Docket No. 12-83**

Dear Ms. Dortch:

On October 15, Will Johnson and I met with Bill Lake, Chief of the Media Bureau, Michelle Carey, Deputy Chief, and Alison Neplokh and Mary Beth Murphy of the Media Bureau, as well as Susan Aaron of the Office of General Counsel, to discuss the above-referenced proceeding.

We discussed the possibility of the Commission commencing a rulemaking that could determine that over-the-top (OTT) video providers that offer prescheduled, linear channels of programming using the Internet are multichannel video programming distributors (MVPDs) for purposes of the Commission’s regulations. We discussed the potential benefits to OTT video providers if they were found to meet the definition of MVPDs, including the protections of the program access rules and the retransmission consent good faith negotiation obligations. We also expressed our strong view that the legacy regulatory regime – and particular requirements, such as franchising and must-carry obligations, that apply to “cable operators” – should not apply to OTT video services or providers and could be fatal to such services. With this approach, OTT video offerings would offer the promise of new competitive choices to consumers and increased competition to incumbent cable operators.

Additionally, we stated some concerns with the MVPD designation, such as whether regulations governing navigation devices would apply to OTT video providers. We explained that OTT video services are in a nascent stage of development and that to promote these emerging competitive services, the Commission must allow OTT video providers the flexibility to adopt different technologies for providing their services rather than imposing legacy technology mandates. Significantly, Section 629(c) of the Communications Act, which governs navigation devices, recognizes the need to limit regulation in order to promote new technologies by giving the Commission authority to waive navigation device rules when doing so would “assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products.”

Ms. Marlene H. Dortch

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Moreover, Section 629(e) gives the Commission authority in the context of a competitive multichannel video programming market, which emerging OTT video providers and technologies will offer consumers, to eliminate its regulations when such action “would promote competition and the public interest.” Therefore, the Commission has ample authority to refrain from imposing technology mandates on OTT video services and should do so.

Pursuant to Section 1.1206(b), Verizon is submitting this *ex parte* notice to the Commission’s Electronic Comment Filing System.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Aaron", with a stylized flourish at the end.

cc: (by email)  
Bill Lake  
Michelle Carey  
Alison Neplokh  
Mary Beth Murphy  
Susan Aaron